



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 300

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August 30, 2004

Ref: 8EPR-SR

MEMORANDUM

SUBJECT: Request for Concurrence on the Applicability of the Off-Site Rule in Park City, Utah

FROM: Jim Christiansen *JK 8/30/04*
Remedial Project Manager
8EPR-SR

For Richard Baird *JK 8/30/04*
Senior Enforcement Attorney
8ENF-L

THROUGH: Michael T. Risner *MTT 8/30/04*
Director, Legal Enforcement Program

Peter Ornstein *PtO 8/30/04*
Deputy Regional Counsel

Tom Burns *T Burns 9/1/04*
Chief, Program Management Unit

TO: Dale Vodehnal *Dale Vodehnal*
Director, Superfund Remedial Response Program

The purpose of this memorandum is to request concurrence on the Richardson Flats Site Team's determination of the applicability of the CERCLA Off-Site Rule (OSR) as it pertains to placement of CERCLA wastes, from the Silver Creek Watershed, at the Richardson Flats Site in Park City, Utah (Site).

To determine if an action involves "off-site" disposal or transfer, and is thus subject to the OSR, CERCLA provides the following definition:

"On-site means the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action." Areas that meet this definition would not be subject to the OSR.

Due to the close proximity of the areas in question, as well as the areal extent and geographically continuous nature of the contamination through the Silver Creek corridor, the Richardson Flats Team has determined that consolidating wastes from the Silver Creek Watershed at the Site and incorporating those wastes into the remedial action at the Site does not constitute an off-site disposal or transfer for purposes of the OSR. The Team recommends that EPA Region 8 concur with this determination. Please indicate your concurrence below:

Michael T. Risner
Director, Legal Enforcement Program

Michael T. Risner
Concur

Peter Ornstein
Deputy Regional Counsel

Peter Ornstein
Concur

Tom Burns
Chief, Program Management Unit

Thomas Burns
Concur

Dale Vodehnal
Director, Superfund Remedial Response Program

Dale Vodehnal for Dale Vodehnal
Concur





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July 13, 2004

Ref: 8EPR-SR

MEMORANDUM

SUBJECT: Request for Concurrence on Off-Site Rule regarding Richardson Flats NPL Site in Park City, Utah

FROM: Jim Christiansen
Remedial Project Manager
8EPR-SR

Richard Baird
Senior Enforcement Attorney
8ENF-L

THROUGH: Michael T. Risner
Director, Legal Enforcement Program

Peter Ornstein
Deputy Regional Counsel

Tom Burns
Chief, Program Management Unit

TO: Dale Vodehnal
Director, Superfund Remedial Response Program

PURPOSE

The purpose of this memorandum is to request concurrence on the Richardson Flats Site Team's interpretation of the CERCLA Off-Site Rule (OSR) as it pertains to placement of CERCLA wastes, from the Silver Creek Watershed, at the Richardson Flats Site in Park City, Utah (Site).

EXECUTIVE SUMMARY

The Richardson Flats Site is composed of waste material originating from several sources within the Silver Creek watershed. Silver Creek has served as a conduit for transportation of these wastes within the watershed and runs close to the Site. The Richardson Flats team has determined that consolidating wastes from several of these sources at the Site and incorporating those wastes into EPA's remedial action at the Site does not constitute off site disposal for purposes of CERCLA's off-site rule. The Richardson Flats team has also determined that the proposed consolidation and remediation of these wastes at the Site will meet the goal of the CERCLA off-site rule of not having CERCLA response actions contribute to future environmental problems.

BACKGROUND

There are six CERCLIS sites in the Park City area in various stages of the Superfund process. All of the sites stem from historic mining of the same sources and share similar characteristics and stakeholders. The receiving stream for all sites, Silver Creek, is currently listed on the State of Utah 303(d) list of impaired water bodies because of elevated levels of mining-related zinc and cadmium. Though the sites were assigned different administrative names and CERCLIS Identification Numbers in the 1980s and 1990s, they are effectively all part of the same contaminated area - the Upper Silver Creek Watershed. Contamination throughout the watershed is geographically continuous.

In 1999, EPA and other stakeholders initiated the Upper Silver Creek Watershed Stakeholders Group (USCWSG) to comprehensively address mining-related impacts in the Park City area. Rather than simply investigating each site alone, the cumulative and interrelated impacts of the entire watershed would be investigated such that comprehensive and complementary cleanup solutions could be crafted for each site. The Group, in conjunction with several EPA and Utah Department of Environmental Quality programs, has conducted numerous investigations. Extensive cleanup through various programs has occurred and numerous other investigations and studies continue.

Three critical cleanups currently being planned are the Empire Canyon Site, the Silver Maple Claims Site, and the Richardson Flats Site. Each of these sites is located within the Upper Silver Creek Watershed: Empire Canyon at its headwaters, Silver Maple Claims and Richardson Flats approximately one mile away.

Empire Canyon is the site of numerous historic mining operations at the headwaters of Silver Creek, above Park City. Empire Canyon is listed on CERCLIS but not proposed for the National Priorities List (NPL). The primary responsible party, United Park City Mines (UPCM), has signed an Administrative Order on Consent (AOC) to perform a removal action at Empire Canyon. EPA published an Action Memorandum calling for cleanup of nearly a mile of

contaminated stream and other actions to reduce metals loading to Silver Creek. UPCM estimates that approximately 20,000 cubic yards of contaminated material will be removed. The ultimate disposition of this waste is undecided.

Silver Maple Claims is a parcel of contaminated wetlands along Silver Creek, just below Park City. Numerous tailings piles exist within the flood plain of Silver Creek. Silver Maple is listed on CERCLIS but not proposed for the NPL. The parcel is owned the Bureau of Land Management (BLM). BLM is currently conducting investigations and will likely conduct removal actions in the near future to mitigate impacts to the wetlands and Silver Creek. Accurate estimates are not yet available, but current information suggests about 10,000 - 20,000 cubic yards of material may be removed.

Richardson Flats is a geographically closed basin and the site of large, inoperative tailings impoundment. The Site is currently proposed for the NPL. It is approximately ½ mile downstream of Silver Maple Claims. United Park City Mines is currently completing a Remedial Investigation/Feasibility Study (RI/FS) for the Site under Administrative Order on Consent (AOC) with EPA. Investigations have shown that the tailings are well contained and that the Site has no significant impacts to Silver Creek. Approximately 7,000,000 tons of tailings are present at the Site. EPA will publish a Record of Decision based upon the results of the RI/FS this fall.

The likely remedies for Empire Canyon and Silver Maple Claims, as well as other small impacted areas not listed on CERCLIS, involve the removal of contaminated materials (tailings, soils) from areas where they are impacting surface water. The possible disposition of these excavated materials includes: consolidation at the originating site in a suitable location, disposal in an appropriate landfill, or consolidation at an alternate location. Neither Empire Canyon nor Silver Maple Claims have significant flat, undeveloped, and dry locations suitable for waste consolidation. Costs for transportation and disposal for a landfill would be extremely high. Because of this and other factors, Richardson Flats is being considered as a logical alternative location to consolidate waste from within the watershed, specifically from the Empire Canyon and Silver Maple Claims Sites.

RATIONALE FOR CONSOLIDATING WASTES AT RICHARDSON FLATS

There are numerous reasons why Richardson Flats is an excellent repository for contaminated materials (mine waste) from within the Silver Creek watershed:

- Investigations have clearly shown that the existing mine waste in the Site impoundment is well contained and does not present any unacceptable risks to human health or the environment. In its current condition, Richardson Flats is not a significant source of metal loading to Silver Creek.
- Remedial actions planned for Richardson Flats will improve conditions and mitigate any small risks the Site presents to the environment. The planned remedial action would not only provide a protective remedy for the Site, but also provide a protective, and

enforceable, remedy for wastes imported there from other areas in the Silver Creek watershed.

- Contamination at Richardson Flats stems from the same sources as other sites in the watershed. The watershed is effectively one large continuous area of contamination. Waste considered for consolidation at the Site shares the same characteristics as the waste already present. Thus, the site for purposes of the off-site rule should be considered to be the Silver Creek watershed.
- The amount of material potentially to be imported to Richardson Flats from other sites is extremely small relative to the amount of material already there. While the imported wastes may have a large impact on the water quality at their originating sites, the relatively small amount of imported material being considered for transportation to the Site would not effectively change conditions at Richardson Flats or significantly change the remedial action to be selected in the Record of Decision for the Site.
- The area is close, within the same watershed, and owned by a viable responsible party, UPCM. UPCM is willing to accept waste from other sites in the watershed. The cost savings realized from consolidating material at Richardson Flats compared with transportation and disposal at a landfill is significant.
- It is more protective of human health, welfare and the environment, and more cost effective, to consolidate Silver Creek watershed wastes at the Site instead of having multiple separate remediated sites in the watershed.

APPLICABILITY AND INTERPRETATION OF THE OSR

The purpose of the CERCLA off-site rule is to avoid having CERCLA-authorized or funded response actions contribute to present or future environmental problems. Both Silver Maple Claims and Empire Canyon are CERCLIS sites being remediated using CERCLA authority. As such, the contaminated materials being considered for removal from those sites are CERCLA wastes.

The Richardson Flats Site Team's interpretation is that consolidation of wastes from Empire Canyon and Silver Maple Claims, as well as other similar sites in the watershed, at Richardson Flats, is consistent with the OSR. The OSR defines "on-site" as "a suitable area in very close proximity to the contamination necessary for the response actions." As stated above, the waste at Richardson Flats come from sources located in the Silver Creek watershed, is composed of the same waste material, contains the same contaminants and is in close proximity. For purposes of the OSR, the site is thus the Silver Creek watershed. The remedy that will be selected in EPA's Record of Decision for the Site will be a protective remedy, thus meeting the goal of the OSR of not having CERCLA response actions contribute to future environmental problems.

CONCLUSION AND RECOMMENDATION

For the above reasons, the Richardson Flats team believes the consolidation of wastes from the Silver Creek Watershed at the Site and incorporating those wastes into the remedial action at the Site does not constitute an off-site disposal for purposes of the OSR. The Richardson Flats team recommends that EPA Region 8 concur with this determination.

